

Oct 10, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PAUL L. SHOALS, JR.,

Petitioner,

v.

JEFFERY A. UTTECHT,

Respondent.

NO: 2:19-CV-270-RMP

ORDER SUMMARILY

DISMISSING HABEAS PETITION

Petitioner Paul L. Shoals, Jr., a prisoner at the Coyote Ridge Corrections Center, brings this *pro se* Petition for Writ of Habeas Corpus by a Person in State Custody pursuant to 28 U.S.C. § 2254. The \$5.00 filing fee has been paid.

EXHAUSTION REQUIREMENT

Petitioner challenges a 2018 Spokane County guilty plea to possession of a controlled substance. He was sentenced to twelve months and one day of incarceration. Petitioner indicates that he did not appeal. ECF No. 1 at 3.

In his grounds for relief, Petitioner argues that the State of Washington has no jurisdiction to decide federal constitutional matters. ECF No. 1 at 6-13. It has

1 long been settled that state courts are competent to decide questions arising under
2 the U.S. Constitution. *See Baker v. Grice*, 169 U.S. 284, 291 (1898) (“It is the
3 duty of the state court, as much as it is that of the federal courts, when the question
4 of the validity of a state statute is necessarily involved, as being in alleged
5 violation of any provision of the federal constitution, to decide that question, and to
6 hold the law void if it violate that instrument.”); *see also Worldwide Church of*
7 *God v. McNair*, 805 F.2d 888, 891 (9th Cir. 1986) (holding that state courts are as
8 competent as federal courts to decide federal constitutional matters). Therefore,
9 Petitioner’s arguments to the contrary lack merit.

10 Additionally, before a federal court may grant habeas relief to a state
11 prisoner, the prisoner must exhaust the state court remedies available to him. 28
12 U.S.C. § 2254(b); *Baldwin v. Reese*, 541 U.S. 27 (2004). Exhaustion generally
13 requires that a prisoner give the state courts an opportunity to act on his claims
14 before he presents those claims to a federal court. *O’Sullivan v. Boerckel*, 526 U.S.
15 838 (1999). A petitioner has not exhausted a claim for relief so long as the
16 petitioner has a right under state law to raise the claim by available procedure. *See*
17 *Id.*; 28 U.S.C. § 2254(c).

18 To meet the exhaustion requirement, the petitioner must have “fairly
19 present[ed] his claim in each appropriate state court (including a state supreme
20 court with powers of discretionary review), thereby alerting that court to the
21 federal nature of the claim.” *Baldwin*, 541 U.S. at 29; *see also Duncan v. Henry*,

1 513 U.S. 364, 365–66 (1995). A petitioner fairly presents a claim to the state court
2 by describing the factual or legal bases for that claim and by alerting the state court
3 “to the fact that the . . . [petitioner is] asserting claims under the United States
4 Constitution.” *Duncan*, 513 U.S. at 365–366; *see also Tamalini v. Stewart*, 249
5 F.3d 895, 898 (9th Cir. 2001) (same). Mere similarity between a claim raised in
6 state court and a claim in a federal habeas petition is insufficient. *Duncan*, 513
7 U.S. at 365–366.

8 Furthermore, to fairly present a claim, the petitioner “must give the state
9 courts one full opportunity to resolve any constitutional issues by invoking one
10 complete round of the State's established appellate review process.” *O'Sullivan*,
11 526 U.S. at 845. Once a federal claim has been fairly presented to the state courts,
12 the exhaustion requirement is satisfied. *See Picard v. Connor*, 404 U.S. 270, 275
13 (1971). It does not appear from the face of the Petition that Petitioner has
14 exhausted his state court remedies as to each of his grounds for relief. Indeed,
15 Petitioner affirmatively represents that he did not exhaust his state court remedies.

16 **GROUND FOR FEDERAL HABEAS RELIEF**

17 Petitioner asserts that the Washington State Constitution contradicts the
18 federal constitution regarding the Fifth Amendment right to “presentment or
19 indictment of a Grand Jury.” He claims “no bill of indictment” was brought
20 against him rendering his arrest, conviction, and imprisonment illegal.

1 Petitioner seems to argue that because the state courts have defied “federally
2 established procedures and processes for the adjudication of crimes” only “a court
3 of federal jurisdiction” has jurisdictional authority over his claims. His bald
4 assertion that “due process of the law was ignored” is unsupported by his factual
5 allegations.

6 The United States Supreme Court stated long ago: “Prosecution by
7 information instead of by indictment is provided for by the laws of Washington.
8 This is not a violation of the Federal Constitution.” *See Gaines v. State of*
9 *Washington*, 277 U.S. 81, 86 (1928). Consequently, Petitioner’s assertions to the
10 contrary presented in his four grounds for federal habeas relief are legally
11 frivolous.

12 Because it plainly appears from the petition and the attached exhibits that
13 Petitioner is not entitled to relief in this Court, **IT IS ORDERED** the petition,
14 **ECF No. 1**, is **DISMISSED** pursuant to Rule 4, Rules Governing Section 2254
15 Cases in the United States District Courts.

16 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
17 enter judgment, provide copies to Petitioner, and close the file. The Court certifies
18 that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be

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1 taken in good faith, and there is no basis upon which to issue a certificate of
2 appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of
3 appealability is therefore **DENIED**.

4 **DATED** October 10, 2019.

5
6 *s/ Rosanna Malouf Peterson*
7 ROSANNA MALOUF PETERSON
8 United States District Judge
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